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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No.12976 of 2006
Date of Decision : Oct. 9, 2006

Rajinder Singh

... Petitioner

Versus

State Bank of India and another.

.. Respondents

CORAM : Hon`ble Mr. Justice Jasbir Singh,
Hon`ble Mr. Justice Pritam Pal.

Present : Shri Ashish Grover, Advocate,
for the petitioner.

Shri Nitin Kumar, Advocate,
for the respondent-Bank.

Shri P.S.Chhinna, Addl. A.G. Punjab.

JASBIR SINGH, J. (Oral)

When notice of motion was issued, the following contention of counsel for the petitioner was noticed by this Court :-

> "Counsel for the petitioner states that after receipt of notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the Act"), he had deposited Rs. 2.00 lacs with the respondent-bank, on different dates. Before the Collector also, it has been said by the petitioner that he will clear his dues by December, 2006. Counsel further states that after issuing notice under Section 13(4) of the Act, an attempt has been made to take actual physical possession of the mortgaged property, which

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is not permissible in view of ratio of judgment in **Kalyani Sales Company Vs. Union of India and others**, 2006 (1) ISJ (Banking) 1."

Counsel for the petitioner states that as per the undertaking given, the petitioner had deposited Rs. 1.00 lac with the respondent bank.

Counsel, while referring to Annexure P/5, states that the petitioner shall clear the loan account by December, 2006.

In view of the statement given by counsel for the petitioner, this writ petition is disposed of with an observation that if the petitioner clears the loan account by December, 2006, the respondent-bank shall not take any action against him. However, it is made clear that if the petitioner fails to do so, the bank shall be at liberty to proceed further against him, as per the ratio of judgment in **Kalyani Sales Company Vs. Union of India and others**, 2006 (1) ISJ (Banking) 1.

[JASBIR SINGH]
JUDGE

[PRITAM PAL]
JUDGE

October 9, 2006
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